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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/718,427	11/24/2000	Christophe Lacroix	033808.137	1586

7590 02/25/2005

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EXAMINER

ROBERTSON, JEFFREY

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/718,427

Applicant(s)

LACROIX ET AL.

Examiner

Jeffrey B. Robertson

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14 and 15 is/are pending in the application.
- 4a) Of the above claim(s) 4, 6, 10, 11 and 14 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 and 15 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 7, 8 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5, 7, 8, and 12 are rejected under 35 U.S.C. 103(a) as obvious over Japanese 62-285947. The reference teaches a thermoplastic polyester composition comprising a thermoplastic component consisting of a thermoplastic polyester and an impact modifier consisting of an ethylene epoxy group containing copolymer and graft copolymer that can be polyacrylate core/methacrylate shell graft copolymer. See the translation at pages 15-16 where compositions containing 100 parts polyester and 25 parts impact modifier consisting of an ethylene epoxy group containing copolymer and polyacrylate core/methacrylate shell graft copolymer in ratios of 40/60 and 10/90 are taught. See also Example 8 in Table I of the Translation where there is 66.7% of PBT, 13.3% of impact modifier where the (B2)/(A) ratio is 1:3, corresponding to applicant's claimed ratio of 25:75. The core-shell polymer HIA 15 (G) appears to have a core of polyacrylate copolymer. See U.S. Patent 4,966,942 at col. 7, lines 20-25. Additionally, at page 8, of the translation, the graft base polymers include polybutadiene, butadiene copolymer with styrene or methyl (meth)acrylate and acrylate copolymers. As suggested by the reference, it would have been obvious to use a combination of ethylene/unsaturated epoxide copolymer and core-shell polymer having a

Art Unit: 1712

polybutadiene, polybutadiene/styrene or methyl(meth)acrylate/alkyl(meth)acrylate copolymer core as an impact modifier for a thermoplastic polyester in order to obtain higher impact strength than when using either impact modifier alone.

Response to Arguments

3. Applicant's arguments filed 11/23/04 have been fully considered but they are not persuasive.

It is noted that on page 4, paragraph 3 of the response, applicant states that the thermoplastic component concentration is between 82-98% by weight. However, in claim 1, the amount of thermoplastic component is from 60-98%. Likewise, in the first paragraph of page 8 of the response, applicant argues that the PBT concentration level of 66.7% by weight is outside the scope of the concentration range allowed in claim 1. However, this is not the case. Therefore, the rejection set forth above is continued.

Allowable Subject Matter

4. Claims 9 and 15 are allowed. JP 62-285947 does not teach or suggest the particular core-shell polymers set forth in claim 15.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

Art Unit: 1712

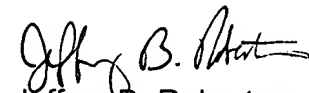
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey B. Robertson whose telephone number is (571) 272-1092. The examiner can normally be reached on Mon-Fri 7:00-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy P Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JBR


Jeffrey B. Robertson
Primary Examiner
Art Unit 1712